



IRW
\$

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:

Docket No.: 07860004US

Tuan Q TRAN, *et. al.*

Serial No.: 10/802,745

Group Art Unit: 3743

Confirmation No.: 5337

Filed: March 18, 2004

Examiner: PATEL, Nihir B.

For: **NEBULIZER MOUTHPIECE**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RESPONSE TO ELECTION/RESTRICTION REQUIREMENT

Sir:

In response to the Election/Restriction Requirement dated July 29, 2004, Applicants elect the species identified in Figure(s) 14-18, with traverse. The Examiner did not indicate which species Figure 18 was directed to. Applicant submits that this Figure should be grouped with Figures 14-17. With respect to Figures 14-18, Applicant submits that independent claim 1 and dependent claims 2, 3, 5, 7, 8, and 9, and independent claim 12 and dependent claims 15, 16, 17, 18, 19, 20, 21, and 22 cover the species disclosed in Figures 14-18.

Applicant respectfully request reconsideration that no claim is generic to the identified species. Applicant respectfully submits that independent claims 1 and 12 are generic to the species shown in Figures 1-18 and respectfully request that the Examiner reconsider claims 1 and 12 as being generic claims. All of the elements in claims 1 and 12 can be found in each of the identified species.

Applicants believe that a one month extensions of time with fees for net addition of claims is required at this time. However, if additional extensions of time are necessary to prevent abandonment of this application, then such extensions of time are hereby petitioned under 37

C.F.R. §1.136(a), and any fees required therefore (including fees for net addition of claims) are hereby authorized to be charged to Attorney's deposit Account No. 23-1951.

Applicant submits that a full and complete response has been made to the pending Office Action and respectfully submits that all of the stated objections and grounds for rejection have been overcome or rendered moot. Accordingly, Applicant respectfully submits that all pending claims are patentably distinct from the prior art of record and are in condition for allowance. The Examiner is thus respectfully requested to pass the above application to issue.

Should the Examiner feel that there are any issues outstanding after consideration of this response, the Examiner is invited to contact the Applicant's undersigned representative at the number below to expedite prosecution. Prompt and favorable consideration of this Reply is respectfully requested. Applicant respectfully requests that a timely Notice of Allowance be issued for this application.

Respectfully submitted,



Philip D. Lane
Reg. No. 41,140

Date: September 29, 2004

McGuireWoods LLP
1750 Tysons Boulevard
Suite 1800
McLean, VA 22102-4215
Tel: 703-712-5069
Fax: 703-712-5296

\\COM\449974.1